

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

JAN - 4 2017

Clerk, U S District Court
District Of Montana
Billings

NATHAN HERROD,

Plaintiff,

v.

POPULASE COMMADERY OF
INTENT REPRODUCTION AND
COPY OF DOCUMENTS
IDENTIFICATION OF RECIVED
PAPER WORK AND NOTES,

Defendants.

CV 16-00125-BLG-SPW-TJC

**FINDINGS AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE
JUDGE**

This matter is pending on Nathan Herrod's Complaint filed August 24, 2016. (Doc. 2.) As Mr. Herrod is proceeding in forma pauperis, the Court is required to dismiss this case, or any portion thereof, if it finds that the complaint is "frivolous or malicious," "fails to state a claim upon which relief may be granted," or "seeks monetary relief from a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2).

Upon review of the Complaint filed in this action, the Court issued an Order on September 13, 2016 finding that Mr. Herrod's Complaint and the attachments thereto are rambling and nonsensical. The Court could not understand what Mr. Herrod was alleging, the relief he sought, or against whom he sought to bring this

lawsuit. Mr. Herrod was given an opportunity to file an amended complaint. (September 13, 2016 Order, Doc. 3.)

The Court's September 13, 2016 Order was returned in the mail on September 22, 2016. (Doc. 4.)

Local Rule 5.2(b) provides as follows:

The court may dismiss a complaint without prejudice or strike an answer when:

- (1) a document directed to the attorney or self-represented party by the court has been returned to the court as not deliverable; and
- (2) the court fails to receive within 60 days of this return a written communication from the attorney or self-represented party indicating a current address for service.

Mail directed to Mr. Herrod was returned to the Court on September 22, 2016, and the Court has failed to receive any further communication from Mr. Herrod.

Based upon the foregoing, the Court issues the following:

RECOMMENDATIONS

1. This matter should be dismissed without prejudice pursuant to Local Rule 5.2(b).
2. The Clerk of Court should be directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.
3. The Clerk of Court should be directed to have the docket reflect that the

Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

DATED this 4th day of January, 2017.



Timothy J. Cavan
United States Magistrate Judge